

SENATE BILL NO. 458—COMMITTEE ON
LEGISLATIVE OPERATIONS AND ELECTIONS

MARCH 25, 2013

Referred to Committee on Legislative Operations and Elections

SUMMARY—Enacts the Uniform Faithful Presidential Electors Act. (BDR 24-704)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to elections; enacting the Uniform Faithful Presidential Electors Act; repealing certain provisions governing presidential electors; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 The United States Constitution provides for the election of President and Vice
2 President by electors from each state who are appointed in the manner directed by
3 each state legislature. (U.S. Const. Art. II, § 1, cl. 2, U.S. Const. Amend. XII)
4 Existing law provides for the presidential electors to be appointed by major and
5 minor political parties and by independent candidates and requires the presidential
6 electors to vote only for the nominees for President and Vice President of the party
7 or the independent candidates that prevail in this State in the general election. (NRS
8 298.020, 298.050, 298.109)
9 This bill enacts the Uniform Faithful Presidential Electors Act. **Section 6** of this
10 bill provides for the nomination of presidential electors, and alternates thereof, by
11 major and minor political parties and by independent candidates. **Section 7** of this
12 bill requires early nominee for presidential elector and alternate to sign a pledge to
13 vote only for the candidates for President and Vice President who receive the
14 highest number of votes in this State at the general election. **Section 8** of this bill
15 requires the certificate of ascertainment, which is required by federal law (3 U.S.C.
16 § 6) to be sent to the Archivist of the United States, to include a statement regarding
17 filling a vacancy in the position of presidential elector. **Section 11** of this bill
18 provides for an amended certificate of ascertainment if the persons who serve as
19 presidential electors are not the persons who were indicated on the original
20 certificate of ascertainment.
21 **Section 9** of this bill requires the Secretary of State to preside over the meeting
22 of presidential electors, which, according to federal law, must be held on the first
23 Monday after the second Wednesday in December of a presidential election year.



24 (3 U.S.C. § 7) **Section 9** also provides for the filling of any vacancies in the
25 position of presidential elector at that meeting.
26 **Section 10** of this bill sets forth the procedure for presidential electors to cast
27 ballots for the offices of President and Vice President.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 298 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 12, inclusive, of this
3 act.

4 **Sec. 2.** *Sections 2 to 12, inclusive, of this act may be cited as*
5 *the Uniform Faithful Presidential Electors Act.*

6 **Sec. 3.** *As used in sections 2 to 12, inclusive, of this act, the*
7 *words and terms defined in sections 4 and 5 of this act have the*
8 *meanings ascribed to them in those sections.*

9 **Sec. 4.** *“Alternate” means a person selected pursuant to*
10 *section 6 of this act to be an alternate to a nominee for*
11 *presidential elector.*

12 **Sec. 5.** *“Nominee for presidential elector” means a person*
13 *selected pursuant to section 6 of this act to be a nominee to the*
14 *position of presidential elector by a major political party, a minor*
15 *political party or an independent candidate nominated for the*
16 *office of President pursuant to NRS 298.109.*

17 **Sec. 6. 1.** *Each major political party shall, at the state*
18 *convention of the major political party held in that year, select*
19 *from the qualified electors who are legally registered members of*
20 *the major political party:*

21 *(a) A nominee to the position of presidential elector; and*

22 *(b) An alternate to the nominee for presidential elector,*

23 *↪ for each position of presidential elector required by law.*

24 **2.** *Each minor political party shall choose from the qualified*
25 *electors who are legally registered members of the minor political*
26 *party:*

27 *(a) A nominee to the position of presidential elector; and*

28 *(b) An alternate to the nominee for presidential elector,*

29 *↪ for each position of presidential elector required by law.*

30 **3.** *Each independent candidate nominated for the office of*
31 *President pursuant to NRS 298.109 shall, at the time of filing the*
32 *petition as required pursuant to subsection 1 of NRS 298.109, or*
33 *within 10 days thereafter, choose from the qualified electors:*

34 *(a) A nominee to the position of presidential elector; and*

35 *(b) An alternate to the nominee for presidential elector,*

36 *↪ for each position of presidential elector required by law.*



1 **Sec. 7. 1. Except as otherwise provided in subsection 2, a**
2 *nominee for presidential elector or an alternate may not serve as a*
3 *presidential elector unless the nominee for presidential elector or*
4 *the alternate signs a pledge in substantially the following form:*
5

6 *If selected for the position of presidential elector, I agree to*
7 *serve as such and to vote only for the nominees for*
8 *President and Vice President of the political party or the*
9 *independent candidates who received the highest number of*
10 *votes in this State at the general election.*
11

12 **2. If a nominee for presidential elector or an alternate is**
13 *physically unable to sign the pledge, the pledge may be signed by*
14 *proxy in the presence of the nominee for presidential elector or the*
15 *alternate, as applicable.*

16 **3. The chair and secretary of the convention of a major**
17 *political party, the person who is authorized to file the list of*
18 *candidates for partisan office of a minor political party with the*
19 *Secretary of State pursuant to NRS 293.1725 or an independent*
20 *candidate shall submit to the Secretary of State each pledge signed*
21 *pursuant to this section with the list of nominees for presidential*
22 *elector and alternates.*

23 **Sec. 8. The certificate of ascertainment submitted to the**
24 *Archivist of the United States pursuant to 3 U.S.C. § 6 must*
25 *include a statement that:*

26 **1. Each nominee for presidential elector shall serve as a**
27 *presidential elector unless a vacancy occurs in the position of*
28 *presidential elector held by that nominee for presidential elector*
29 *before the conclusion of the meeting of presidential electors held*
30 *pursuant to 3 U.S.C. § 7; and*

31 **2. If a person is appointed pursuant to section 9 of this act to**
32 *fill a vacancy in a position of presidential elector, the Secretary of*
33 *State will submit an amended certificate of ascertainment to the*
34 *Archivist.*

35 **Sec. 9. 1. The Secretary of State shall preside at the**
36 *meeting of presidential electors held pursuant to 3 U.S.C. § 7.*
37 *Except as otherwise provided in this section and section 10 of this*
38 *act, the nominees for presidential elector whose candidates for*
39 *President and Vice President receive the highest number of votes*
40 *in this State at the general election are the presidential electors.*

41 **2. If a nominee for presidential elector is not present to vote**
42 *at the meeting, the position of presidential elector to be filled by*
43 *that nominee for presidential elector is vacant and the vacancy*
44 *must be filled as follows:*



1 (a) *If the alternate is present at the meeting, the Secretary of*
2 *State shall appoint the alternate to the position of presidential*
3 *elector;*

4 (b) *If the alternate is not present at the meeting, the Secretary*
5 *of State shall appoint to the position of presidential elector a*
6 *person chosen by lot from among the alternates present at the*
7 *meeting, if any;*

8 (c) *If no alternates are present at the meeting, the Secretary of*
9 *State shall appoint to the position of presidential elector a person*
10 *who is:*

11 (1) *A qualified elector;*

12 (2) *Present at the meeting; and*

13 (3) *Chosen through nomination by and plurality vote of*
14 *presidential electors who are present at the meeting; and*

15 (d) *If votes cast pursuant to subparagraph (3) of paragraph (c)*
16 *result in a tie, the Secretary of State shall appoint to the position of*
17 *presidential elector a person who is chosen by lot from those*
18 *persons who tied for the most votes.*

19 3. *If all the positions of presidential elector are vacant and no*
20 *alternates are present at the meeting, the Secretary of State shall*
21 *appoint from the qualified electors one person to the position of*
22 *presidential elector, and the remaining positions must be filled*
23 *pursuant to paragraphs (c) and (d) of subsection 2.*

24 4. *The nomination by and vote of a single presidential elector*
25 *is sufficient to choose a person to be appointed to the position of*
26 *presidential elector pursuant to subparagraph (3) of paragraph (c)*
27 *of subsection 2.*

28 5. *Except as otherwise provided in subsection 6, a person*
29 *appointed to the position of presidential elector pursuant to this*
30 *section may not serve in that position unless the person signs a*
31 *pledge in substantially the following form:*

32
33 *I agree to serve as a presidential elector and to vote only for*
34 *the nominees for President and Vice President of the party*
35 *or the independent candidates who received the highest*
36 *number of votes in this State at the general election.*

37
38 6. *If a person appointed to the position of presidential elector*
39 *pursuant to this section is physically unable to sign the pledge, the*
40 *pledge may be signed by proxy.*

41 7. *If a person appointed to a position of presidential elector*
42 *pursuant to this section does not sign the pledge described in*
43 *subsection 5, that position of presidential elector is vacant and*
44 *must be filled pursuant to this section.*



1 **Sec. 10. 1.** *The Secretary of State shall provide to each*
2 *presidential elector a ballot for the office of President and a ballot*
3 *for the office Vice President. The presidential elector shall mark*
4 *the applicable ballot provided by the Secretary of State for the*
5 *person who received the highest number of votes at the general*
6 *election for the office of President and the person who received*
7 *the highest number of votes at the general election for the office of*
8 *Vice President. The presidential elector shall sign and legibly print*
9 *his or her name on the ballots and present the ballots to the*
10 *Secretary of State.*

11 **2.** *After all presidential electors have presented their ballots*
12 *to the Secretary of State, the Secretary of State shall examine each*
13 *ballot. If a presidential elector:*

14 **(a)** *Presents both ballots and the ballots are marked with votes*
15 *for the person who received the highest number of votes at the*
16 *general election for the office of President and the person who*
17 *received the highest number of votes at the general election for the*
18 *office of Vice President, respectively, the Secretary of State shall*
19 *accept both ballots.*

20 **(b)** *Does not present both ballots, presents an unmarked ballot*
21 *or presents a ballot marked with a vote that does not conform with*
22 *the provisions of subsection 1:*

23 **(1)** *The Secretary of State shall refuse to accept either*
24 *ballot of the presidential elector; and*

25 **(2)** *The Secretary of State shall deem the presidential*
26 *elector's position vacant. The vacancy must be filled pursuant to*
27 *the provisions of section 9 of this act. The person appointed to fill*
28 *the vacancy in the position of presidential elector, after signing the*
29 *pledge described in section 9 of this act, shall mark both ballots*
30 *and present both ballots to the Secretary of State pursuant to this*
31 *section.*

32 **3.** *Only the votes accepted by the Secretary of State pursuant*
33 *to this section may be recorded on the lists of votes made by the*
34 *presidential electors pursuant to 3 U.S.C. § 9.*

35 **Sec. 11.** *If the presidential electors whose votes are accepted*
36 *by the Secretary of State pursuant to section 10 of this act are not*
37 *the same persons indicated on the certificate of ascertainment*
38 *submitted to the Archivist of the United States pursuant to 3*
39 *U.S.C. § 6, the Secretary of State shall:*

40 **1.** *Prepare an amended certificate of ascertainment that*
41 *contains the names of persons who served as presidential electors;*
42 *and*

43 **2.** *Communicate to the Archivist of the United States the*
44 *amended certificate of ascertainment and a statement that the*



1 *amended certificate is to replace the certificate of ascertainment*
2 *previously submitted to the Archivist.*

3 **Sec. 12.** *In applying and construing the provisions of*
4 *sections 2 to 12, inclusive, of this act, consideration must be given*
5 *to the need to promote uniformity of the law with respect to its*
6 *subject matter among states that have enacted the Uniform*
7 *Faithful Presidential Electors Act.*

8 **Sec. 13.** NRS 298.109 is hereby amended to read as follows:

9 298.109 1. A person who desires to be an independent
10 candidate for the office of President of the United States must, not
11 later than 5 p.m. on the second Friday in August in each year in
12 which a presidential election is to be held, pay a filing fee of \$250
13 and file with the Secretary of State a declaration of candidacy and a
14 petition of candidacy, in which the person must also designate
15 a nominee for Vice President. The petition must be signed by a
16 number of registered voters equal to not less than 1 percent of the
17 total number of votes cast at the last preceding general election for
18 candidates for the offices of Representative in Congress and must
19 request that the names of the proposed candidates be placed on the
20 ballot at the general election that year. The candidate shall file a
21 copy of the petition the person intends to circulate for signatures
22 with the Secretary of State.

23 2. The petition may consist of more than one document. Each
24 document must bear the name of a county and only registered voters
25 of that county may sign the document. The documents which are
26 circulated for signature in a county must be submitted to that county
27 clerk for verification in the manner prescribed in NRS 293.1276 to
28 293.1279, inclusive, not later than 25 working days before the last
29 day to file the petition of candidacy with the Secretary of State
30 pursuant to subsection 1. Each person signing shall add to his or her
31 signature the address of the place at which he or she resides, the date
32 that he or she signs and the name of the county wherein he or she is
33 registered to vote. Each document of the petition must also contain
34 the affidavit of the person who circulated the document that all
35 signatures thereon are genuine to the best of the person's knowledge
36 and belief and were signed in his or her presence by persons
37 registered to vote in that county.

38 ~~3. Each independent candidate so nominated for the office of~~
39 ~~President shall at the time of filing the petition as provided in~~
40 ~~subsection 1, or within 10 days thereafter, file with the Secretary of~~
41 ~~State a written designation of the names of the number of~~
42 ~~presidential electors then authorized by law, whom the independent~~
43 ~~candidate desires to act as his or her electors, all of whom must then~~
44 ~~be registered voters. Immediately following receipt of each~~
45 ~~candidate's written designation of the candidate's nominees for~~



1 ~~electors, the Secretary of State shall record them in the Secretary of~~
2 ~~State's office as the nominees for presidential electors of that~~
3 ~~independent candidate.~~
4 ~~—4.1~~ If the candidacy of any person who seeks to qualify
5 pursuant to this section is challenged, all affidavits and documents
6 in support of the challenge must be filed with the First Judicial
7 District Court not later than 5 p.m. on the fourth Tuesday in August.
8 Any judicial proceeding relating to the challenge must be set for
9 hearing not later than 5 days after the fourth Tuesday in August.
10 ~~15.1~~ 4. The county clerk shall not disqualify the signature of a
11 voter who fails to provide all the information required by this
12 section if the voter is registered in the county named on the
13 document.
14 **Sec. 14.** NRS 298.010, 298.020, 298.025, 298.030, 298.040,
15 298.050, 298.060, 298.070 and 298.080 are hereby repealed.

LEADLINES OF REPEALED SECTIONS

- 298.010** Time when chosen; number.
- 298.020** Selection of party's nominees.
- 298.025** Nominees of candidates who receive highest number of votes at general election become presidential electors.
- 298.030** Time when presidential electors required to convene at seat of government.
- 298.040** Filling vacancy upon death or absence of presidential elector.
- 298.050** Convening and voting for President and Vice President.
- 298.060** Presidential electors to use separate ballots.
- 298.070** Lists of persons voted for and number of votes; certification; transmission to President of the Senate.
- 298.080** Proceedings of presidential electors to conform to United States Constitution and laws.



